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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,706	12/26/2001	Joseph David Tanzer	A01199A	6034
21898	7590	11/18/2003	EXAMINER	
ROHM AND HAAS COMPANY PATENT DEPARTMENT 100 INDEPENDENCE MALL WEST PHILADELPHIA, PA 19106-2399			NILAND, PATRICK DENNIS	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,706

Applicant(s)

TANZER ET AL.

Examiner

Patrick D. Niland

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 10 is/are rejected.
- 7) ☒ Claim(s) 7 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5137571 Eisenhart et al..

Eisenhart et al. discloses the instantly claimed compositions of the instant claims 1-5 at the abstract; column 2, lines 24-68; column 3, lines 1-68; column 4, lines 34-68; column 5, lines 1-15; column 6, lines 37-40; column 12, lines 15-68; column 13, lines 30-68; column 14, lines 1-68; column 15, lines 1-22; and the remainder of the document. It is noted that Eisenhart does not refer to these compositions as “tinting compositions”. However, the disclosed compositions contain the instantly claimed ingredients and amounts thereof and are necessarily inherently usable as “tinting compositions” because they are able to be mixed with another paint to “tint” it as understood by all of us who have mixed two different paints together to get a desired color, eg. white paint plus red paint to get pink paint.

3. Claims 1, 3, 5, 6, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3917556 Baurecht et al..


Baurecht et al. discloses the instantly claimed tinting compositions at the abstract; column 1, lines 3-68; column 2, lines 1-40 and the remainder of the document. Its addition to paint falls within the scope of the method of the instant claims 6, 8, and 10.

4. Claims 7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The method of these claims using the composition claimed is not taught nor suggested by the prior art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 703-308-3510. The examiner can normally be reached on Monday to Friday from 10am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 703-306-2777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Patrick D. Niland
Primary Examiner
Art Unit 1714